

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 5/18/17

----- x
:
:
IN RE AMERICAN REALTY CAPITAL
PROPERTIES, INC. LITIGATION

: **ORDER DETERMINING**
: **CLASS CERTIFICATION AND**
: **DISCOVERY ISSUES**

:
:
15-mc-40 (AKH)

----- X

ALVIN K. HELLERSTEIN, U.S.D.J.:

On May 16, 2017, I held a status conference to regulate discovery, to hear argument on plaintiffs' motion for class certification, and to resolve other matters on the agenda of the meeting, attached hereto. For the reasons stated on the record, I held:

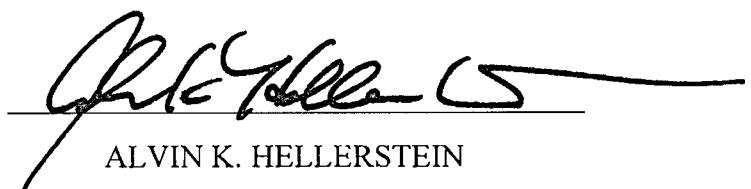
1. Paper discovery will conclude on May 31, 2017. All outstanding paper discovery requests must be resolved by then. Where there are no documents responsive to a request, the absence must be explained by the affidavit of a competent witness describing the search and search terms used.
2. The defendants shall review their privilege logs to eliminate all documents not properly covered by privilege. Privilege must be claimed by document, not by categories of documents. A revised log shall be produced by June 6, 2017. Plaintiffs shall respond to defendants by June 22, 2017. The parties then shall promptly meet and confer to discuss the logs. ARCP shall move for a protective order justifying non-production of the privileged items, and plaintiffs may oppose. A hearing will be held to determine all outstanding privilege issues on July 18th, 2017 at 10:00 a.m.

3. Dr. Steven Feinstein and Dr. Christopher James, plaintiffs' and defendants' experts, shall testify, separately and together, at a full day session to be held July 12, 2017 at 10:00 a.m. on the issues of market efficiency of ARCP securities during the Class Period. Prior to the hearing, each party may depose the other's expert for no more than one day for plaintiff, and for no more than one day for defendant. The parties shall agree on a protocol for how the experts will be questioned at the hearing.
4. All outstanding issues regarding the class certification motion will be determined at a hearing on August 22, 2017 at 10:00 a.m. The parties shall promptly submit a letter to the Court indicating a mutually agreed upon briefing schedule for simultaneous briefing, to be completed by August 11, 2017.
5. Depositions on class issues may proceed immediately. Grant Thornton may question witnesses immediately following the conclusion of other defendants' questioning.

SO ORDERED.

Dated: New York, New York

May 18, 2016



ALVIN K. HELLERSTEIN
United States District Judge

AGENDA

In re American Realty Capital Properties, Inc. Litigation, 15-mc-40

Status Conference: May 16, 2017 at 4:00 p.m.

1. Ruling on Plaintiffs' motion for Certification (and discussion of supplemental briefing, if necessary);
2. Grant Thornton's opposition to Class Certification;
3. Joint discovery dispute letter in the Class Action concerning exchange of information regarding the parties' document collection efforts;
4. Hearing date concerning privilege issues and for protocol to be applied to submission of Joint Letters pursuant to this Court's Rule 2.E (to be scheduled for June 5, 2017 at 2:30 p.m.);
5. Goals and activities for the next three months and setting next status conference.